

Proposed technical correction:

SECTION #. G.S. 163-105 reads as rewritten:

"§ 163-105. Payment of expense of conducting primary elections.

The expense of printing and distributing the poll and registration ~~books, blanks, and ballots for those offices required by G.S. 163-109(b)~~ books and blanks to be furnished by the State, and the per diem and expenses of the State Board of Elections while engaged in the discharge of primary election duties imposed by law upon that Board, shall be paid by the State.

The expenses of printing and distributing ~~the ballots for those offices required by G.S. 163-109(c) to be furnished by counties,~~ ballots pursuant to G.S. 163-165.3 and the per diem (or salary) and expenses of the county board of elections and the chief judges and judges of election, while engaged in the discharge of primary election duties imposed by law upon them, shall be paid by the counties." (1915, c. 101, s. 7; 1917, c. 218; C.S., s. 6026; 1927, c. 260, s. 21; 1933, c. 165, s. 14; 1967, c. 775, s. 1; 1985, c. 563, s. 1; 1993 (Reg. Sess., 1994), c. 762, s. 30; 2017-6, s. 3; 2018-146, s. 3.1(a), (b).)

Explanation: This proposed technical correction amends G.S. 163-105 to conform to the repeal of G.S. 163-109, which divided the responsibility of producing official ballots between the State Board of Elections and county boards of elections. S.L. 2002-159, s. 55(j), repealed G.S. 163-109, to conform to the enactment of G.S. 163-165.3 by S.L. 2001-460, s. 3, which placed the responsibility of producing official ballots with the county boards of elections.

Excerpt of S.L. 2002-159:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

SESSION LAW 2002-159

SENATE BILL 1217

AN ACT TO MAKE TECHNICAL CORRECTIONS AND CONFORMING CHANGES TO THE GENERAL STATUTES AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION; TO RESTORE THE DEFINITION OF FAMILY CARE HOME TO ITS ORIGINAL LANGUAGE AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION; AND TO MAKE VARIOUS OTHER CHANGES TO THE GENERAL STATUTES AND SESSION LAWS.

The General Assembly of North Carolina enacts:

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PART III. OTHER CHANGES

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SECTION 55.(i) G.S. 163-227.3 reads as rewritten:

"§ 163-227.3. Date by which absentee ballots must be available for voting.

(a) ~~The State Board of Elections~~ A board of elections shall provide absentee ballots of the kinds ~~to be furnished by the State Board, to the county boards of elections~~ needed 50 days prior to

the date on which the election shall be conducted unless 45 days is authorized by the State Board of Elections under G.S. 163-22(k) or there shall exist an appeal before the State Board or the courts not concluded, in which case the State Board shall provide the ballots as quickly as possible upon the conclusion of such an appeal. However, in the case of municipal elections, absentee ballots shall be made available no later than 30 days before an election. In every instance the ~~State Board~~ board of elections shall exert every effort to provide absentee ballots, of the kinds ~~to be furnished by the State Board, to each county needed~~ by the date on which absentee voting is authorized to commence. ~~In any case where absentee ballots are printed by the county board of elections, that county board shall follow the direction of the State Board in delaying absentee ballots while an appeal is pending and in providing them as soon as possible thereafter.~~

(b) Second Primary. – The ~~State Board of Elections~~ board of elections shall provide absentee ballots, of the kinds ~~to be furnished by the State Board, needed,~~ as quickly as possible after the ballot information for a second primary has been determined."

SECTION 55.(j) G.S. 163-109 is repealed.

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SECTION 55.(p) Subsections 55(a) through 55(n) of this section become effective January 1, 2003, and apply to all primaries and elections held on and after that date. Subsection 55(o) is effective when this act becomes law.

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In the General Assembly read three times and ratified this the 4th day of October, 2002.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:28 a.m. this 11th day of October, 2002

Text of Former G.S. 163-109:

§ 163-109. Primary ballots; printing and distribution.

(a) General. – In primary elections there shall be as many kinds of official State, district, and county ballots as there are legally recognized political parties, members of which have filed notice of their candidacy for nomination. The ballots for each political party shall be printed to

conform to the requirements of G.S. 163-140(c) and to show the party's name, the name of each party member who has filed notice of candidacy, and the office for which each aspirant is a candidate.

Only those who have filed the required notice of candidacy and pledge with the proper board of elections, and who have paid the required filing fee, shall have their names printed on the official ballots of the political party with which affiliated.

(b) Ballots to Be Furnished by State Board of Elections. – It shall be the duty of the State Board of Elections to print official ballots for each political party having candidates for the following offices to be voted for in the primary:

United States Senator,

Member of the House of Representatives of the United States Congress, Governor, and

All other State offices, except superior court judge, district court judge, and district attorney.

In its discretion, the State Board of Elections may print separate primary ballots for each of these offices, or it may combine some or all of them on a single ballot.

At least 60 days before the date of the primary, the State Board of Elections shall deliver a sufficient number of these ballots to each county board of elections. The chairman of the county board of elections shall furnish the chairman of the State Board of Elections with a written receipt for the ballots delivered to him within two days after their receipt.

(c) Ballots to Be Furnished by County Board of Elections. – It shall be the duty of the county board of elections to print official ballots for each political party having candidates for the following offices to be voted for in the primary:

Superior court judge,

District court judge,

District attorney,

State Senator,

Member of the House of Representatives of the General Assembly, and All county offices.

In printing primary ballots, the county board of elections shall be governed by instructions of the State Board of Elections with regard to width, color, kind of paper, form, and size of type.

In its discretion, the county board of elections may print separate primary ballots for the district and county offices listed in this subsection, or it may combine some or all of them on a single ballot. In a primary election, if there shall be 10 or more candidates for nomination to any one office, the county board of elections in its discretion may prepare a separate ballot for said office.

Three days before the primary election, the chairman of the county board of elections shall distribute official State, district, and county ballots to the chief judge of each precinct in his county, and the chief judge shall give him a receipt for the ballots received. On the day of the primary it shall be the chief judge's duty to have all the ballots delivered to him available for use at the precinct voting place.

(d) Repealed by Session Laws 1977, c. 265, s. 8. (1915, c. 101, ss. 8, 17; 1917, c. 218; C.S., ss. 6028, 6037; 1927, c. 260, s. 22; 1933, c. 165, s. 16; 1966, Ex. Sess., c. 5, ss. 8, 10; 1967, c. 775, s. 1; c. 1063, s. 3; 1973, c. 793, ss. 39-41; 1977, c. 265, ss. 7, 8; 1979, c. 411, s. 6; 1993 (Reg. Sess., 1994), c. 762, s. 32.)

Excerpt of S.L. 2001-460:

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

SESSION LAW 2001-460

SENATE BILL 17

AN ACT TO REWRITE ARTICLE 13 AND ARTICLE 14 OF CHAPTER 163 OF THE GENERAL STATUTES, AS RECOMMENDED BY THE ELECTION LAWS REVISION COMMISSION; TO PERMIT THE USE OF CERTAIN GENDER TITLES ON THE BALLOT; TO GIVE THE COUNTY BOARD OF ELECTIONS FLEXIBILITY IN SETTING A BUFFER ZONE AROUND A VOTING PLACE, WITH A MINIMUM OF 25 FEET; AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1. Articles 13 and 14 of Chapter 163 of the General Statutes are repealed.

SECTION 2. G.S. 163-2 is repealed.

SECTION 3. Chapter 163 of the General Statutes is amended by adding a new Article to read:

"Article 13A.

"Voting.

"Part 1. Definitions.

"§ 163-165. Definitions.

In addition to the definitions stated below, the definitions set forth in Article 15A of Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

- (1) 'Ballot' means an instrument on which a voter indicates a choice so that it may be recorded as a vote for or against a certain candidate or referendum proposal. The term 'ballot' may include a paper ballot to be counted by hand, a paper ballot to be counted on an electronic scanner, the face of a lever voting machine, the image on a direct record electronic unit, or a ballot used on any other voting system.
- (2) 'Ballot item' means a single item on a ballot in which the voters are to choose between or among the candidates or proposals listed.
- (3) 'Ballot style' means the version of a ballot within a jurisdiction that an individual voter is eligible to vote. For example, in a county that uses essentially the same official ballot, a group office such as county commissioner may be divided into districts so that different voters in the same county vote for commissioner in different districts. The different versions of the county's official ballot

containing only those district ballot items one individual voter may vote are the county's different ballot styles.

- (4) 'Election' means the event in which voters cast votes in ballot items concerning proposals or candidates for office in this State or the United States. The term includes primaries, general elections, referenda, and special elections.
- (5) 'Official ballot' means a ballot that has been certified by the State Board of Elections and produced by or with the approval of the county board of elections. The term does not include a sample ballot or a specimen ballot.
- (6) 'Provisional official ballot' means an official ballot that is voted and then placed in an envelope that contains an affidavit signed by the voter certifying identity and eligibility to vote.
- (7) 'Referendum' means the event in which voters cast votes for or against ballot questions other than the election of candidates to office.
- (8) 'Voting booth' means the private space in which a voter is to mark an official ballot.
- (9) 'Voting enclosure' means the room or connected rooms within the voting place that is used for voting.
- (10) 'Voting place' means the building that contains the voting enclosure.
- (11) 'Voting system' means a system of casting and tabulating ballots. The term includes systems of paper ballots counted by hand as well as systems utilizing mechanical and electronic voting equipment.

"Part 2. Ballots and Voting Systems.

"§ 163-165.1. Scope and general rules.

- (a) Scope. – This Article shall apply to all elections in this State.
- (b) Requirements of Official Ballots in Voting. – In any election conducted under this Article:
 - (1) All voting shall be by official ballot.
 - (2) Only votes cast on an official ballot shall be counted.
- (c) Compliance With This Article. – All ballots shall comply with the provisions of this Article.
- (d) Other Uses Prohibited. – An official ballot shall not be used for any purpose not authorized by this Article.

"§ 163-165.2. Sample ballots.

- (a) County Board to Produce and Distribute Sample Ballots. – The county board of elections shall produce sample ballots, in all the necessary ballot styles of the official ballot, for every election to be held in the county. The sample ballots shall be given an appearance that clearly distinguishes them from official ballots. The county board shall distribute sample ballots to the chief judge of every precinct in which the election is to be conducted. The chief judge shall post a sample ballot in the voting place and may use it for instructional purposes. The county board of elections may use the sample ballot for other informational purposes.
- (b) Document Resembling an Official Ballot to Contain Disclaimer. – No person other than a board of elections shall produce or disseminate a document substantially resembling an official

ballot unless the document contains on its face a prominent statement that the document was not produced by a board of elections and is not an official ballot.

"§ 163-165.3. Responsibilities for preparing official ballots.

(a) State Board to Certify Official Ballots and Instructions to Voters. – The State Board of Elections shall certify the official ballots and voter instructions to be used in every election that is subject to this Article. In conducting its certification, the State Board shall adhere to the following:

- (1) No later than January 31 of every calendar year, the State Board shall establish a schedule for the certification of all official ballots and instructions during that year. The schedule shall include a time for county boards of elections to submit their official ballots and instructions to the State Board for certification and times for the State Board to complete the certification.
- (2) The State Board of Elections shall compose model ballot instructions, which county boards of elections may amend subject to approval by the State Board as part of the certification process. The State Board of Elections may permit a county board of elections to place instructions elsewhere than on the official ballot itself, where placing them on the official ballot would be impractical.
- (3) With regard only to multicounty ballot items on the official ballot, the State Board shall certify the accuracy of the content on the official ballot.
- (4) With regard to the entire official ballot, the State Board shall certify that the content and arrangement of the official ballot are in substantial compliance with the provisions of this Article and standards adopted by the State Board.
- (5) The State Board shall proofread the official ballot of every county, if practical, prior to final production.
- (6) The State Board is not required to certify or review every official ballot style in the county but may require county boards to submit and may review a composite official ballot showing races that will appear in every district in the county.

→ (b) County Board to Prepare and Produce Official Ballots and Instructions. – Each county board of elections shall prepare and produce official ballots for all elections in that county. The county board of elections shall submit the format of each official ballot and set of instructions to the State Board of Elections for review and certification in accordance with the schedule established by the State Board. The county board of elections shall follow the directions of the State Board in placing candidates, referenda, and other material on official ballots and in placing instructions.

(c) Late Changes in Ballots. – The State Board shall promulgate rules for late changes in ballots. The rules shall provide for the reprinting, where practical, of official ballots as a result of replacement candidates to fill vacancies in accordance with G.S. 163-114 or other late changes. If an official ballot is not reprinted, a vote for a candidate who has been replaced in accordance with G.S. 163-114 will count for the replacement candidate.

(d) Special Ballots. – The State Board of Elections, with the approval of a county board of elections, may produce special official ballots, such as those for disabled voters, where production by the State Board would be more practical than production by the county board.

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SECTION 12. This act becomes effective January 1, 2002.
In the General Assembly read three times and ratified this the 13th day of November,
2001.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 11:18 a.m. this 14th day of November, 2001